



July 28, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 96-45

Dear Ms. Dortch:

On July 27, John Bergmayer and Harold Feld of Public Knowledge (PK) met with Zac Katz from Chairman Genachowski's office, and Amy Bender and Alex Minard from the Wireline Competition Bureau.

PK urged the Commission to maintain its commitment to true universal broadband. All households should have access to this vital communications tool. When the nation sought to extend telephone and electric service to all areas, the goal was 100% deployment. By pursuing this aspirational goal policymakers helped ensure that nearly all households had access to the basic infrastructure of the 20th century. Policymakers in the 21st century should do the same thing.

PK argued that a "self-provisioning" model could help get broadband to certain high-cost places. Not all high-cost areas are alike, and often the best people to provide broadband to a particular area are people who live there. A self-provisioning approach gives them the tools they need to do that. This proposal, which is complementary to more comprehensive reforms, (1) would require that fund recipients make interconnection points and backhaul capacity available to unserved areas, and (2) create a modest one-time fund for new equipment expenditures, the help get local efforts off the ground. This proposal will allow many more communities to replicate the success that diverse efforts, such as North Carolina's Mountain Area Information Network and California's Tribal Digital Village, have had.

The Commission has ample legal authority to carry out the self-provisioning plan. Most of it can be implemented via public interest requirements on fund recipients. Additionally, Section 706 of the Telecommunications Act of 1996 instructs the Commission to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans," and measures that lead directly to new rural infrastructure certainly meet that standard. Furthermore, to the extent they are Title II carriers, fund recipients have a pre-existing duty to "furnish ... communication service upon reasonable request," and to "establish physical connections with other carriers." 47 U.S.C. § 201.

PK emphasized that the Commission ought to take a technology-neutral approach to determining whether a given rural or high-cost broadband service was "reasonably comparable to those services provided in urban areas" and "available at rates that are reasonably comparable to rates charged for similar services in urban areas." 47 U.S.C. § 254(b)(3). It should not exclude any technology (such as satellite) from receiving funds, but at the same time, it should not give funds to a service that is not reasonably comparable or make special allowances to ensure that certain services qualify. Importantly, the Commission should look beyond certain technical

characteristics (such as upload and download speed) in determining whether a given service is comparable. For example, network management practices, pricing structures, and usage caps can prevent a technologically adequate service from being truly comparable.

Finally, PK understands that the Commission must make hard choices when determining whether to fund competitive carriers. Should it enable competition in rural areas, which can improve service quality and help ensure those areas receive comparable service, or should it fund only one carrier per high-cost area, which may be less costly but risks creating a government-sanctioned local monopoly? PK suggested that, when faced with this problem, the Commission should at least ensure that it makes no changes that lead to a lessening of service in rural areas.

Respectfully submitted,

/s John Bergmayer
Senior Staff Attorney
Public Knowledge

cc:
Zac Katz
Amy Bender
Alex Minard